

**RULES
OF
THE TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND MENTAL RETARDATION**

**CHAPTER 0940—4—1
VOLUNTARY ADMISSIONS TO DEVELOPMENTAL CENTERS**

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0940—4—1—.01 REQUEST FOR VOLUNTARY ADMISSION.

- (1) Before an individual may be considered for voluntary admission to a developmental center, such admission must first be requested and consented to by one of the individuals cited in *T.C.A. §33—5—101*.
- (2) An application for admission must be completed and signed by one of the individuals cited in *T.C.A. §33—5—101*.
- (3) Upon request for voluntary admission, the developmental center will assign a social service or other appropriate staff member to make a home visit and to offer assistance to the person filling out the application form. A release of information will be required to accompany the application form so that relevant data can be requested from professionals and agencies from whom the client has received evaluation, diagnosis, treatment, counseling, or other programming services.

Authority: *T.C.A. §§33—1—203, 33—1—204, and 33—5—101. Administrative History:* Original rule filed October 17, 1978; effective December 1, 1978. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.

0940—4—1—.02 INTAKE PROCEDURES.

- (1) After the completed application for admission has been received by the developmental center, the applicant will be informed in writing of such receipt.
- (2) An evaluation, as the term is defined by the American Association of Mental Deficiency (AAMD) in its manual, *Classification in Mental Retardation*, of each prospective resident shall be completed before the consideration of his/her application for admission.
- (3) After the interdisciplinary team of the developmental center has reviewed the results of the evaluation, it will issue a report on its findings. It will then schedule an interview between its representative and the *T.C.A. §33—5—101* applicant to discuss the contents of the report.
- (4) Enactment of recommendations is contingent upon the choice and will of the client. The client always has the option to decline the recommended services and all recommendations shall be made which are in the best interests of the client, even if the recommendations conflict with the family's wishes.
- (5) If a recommendation for voluntary admission is made, the developmental center admissions committee will assign a priority status for admissions and will determine if there is a vacancy in the unit which would most appropriately meet the client's needs. If the developmental center admissions committee recommends admission, the client still has the option to decline services. No recommendation for admission shall be based on the premise that it is for a lifetime.

(Rule 0940-4-1-.02, continued)

Authority: T.C.A. §§33—1—203, 33—1—204, and 33—5—101. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.

0940—4—1—.03 ADMISSION REVIEW BOARD APPOINTMENTS.

- (1) The Admission Review Board shall be composed of three members, none of whom will be an employee of the Tennessee Department of Mental Health and Mental Retardation. After initial terms are completed, appointments will be for three years. The Admission Review Board shall elect its own chairman and will rotate chairmanship from year to year. The board members' travel expenses will be reimbursed by the Tennessee Department of Mental Health and Mental Retardation in accordance with state travel regulations.
- (2) The members of the Admission Review Board at each developmental center are selected in consultation with the Tennessee Department of Mental Health and Mental Retardation in the following manner. The Association for Retarded Citizens of Tennessee (ARCT) will appoint a representative to the Review Board who shall be a parent of a mentally retarded person not confined to a developmental center in Tennessee. The Developmental Disabilities Services Act Council will appoint a representative to the Review Board who shall represent the interests of developmentally disabled persons. The Board of Trustees of the developmental center will choose a representative to the Review Board who meets the academic qualification for a developmental center superintendent under T.C.A. §33—2—103 and, in addition, having two years experience in the care and treatment of mentally retarded persons.
- (3) The Association for Retarded Citizens of Tennessee, the Developmental Disabilities Services Act Council, and the Board of Trustees of each developmental center shall each select, in addition to the admission review board members, an alternative member. Alternative members shall have the same qualifications, represent the same interests, serve for the same term, and receive the same reimbursement for travel expenses as the member selected by each organization. When an admission review board member is unable or unwilling to attend a hearing, then the alternate member selected by the organization who the member represents may serve. The alternate member, when serving in the absence of the member, has full authority to act as a member of the Admission Review Board.

Authority: T.C.A. §§33—1—203, 33—1—204, and 33—5—101. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Amendment filed February 1, 1979; effective March 17, 1979. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.

0940—4—1—.04 ADMISSION REVIEW HEARING APPLICABILITY.

- (1) The Admission Review Board procedure is not applicable to:
 - (a) Respite admissions lasting no more than 45 days;
 - (b) Emergency respite admissions lasting no more than 45 days provided an informal review of said admission is carried out by the admissions committee of the developmental center within seven days after said admission;
 - (c) Short-term training admission lasting no more than 6 months; and
 - (d) Outpatient services.
- (2) A "respite admission" as used herein means a voluntary admission authorized solely for the purpose of providing a respite for the person or persons having responsibility for the care, custody, and control of the client.
- (3) An "emergency respite admission" as used herein means an admission caused by an emergency situation

(Rule 0940-4-1-.04, continued)

- (4) resulting in the temporary inability of the person or persons having care, custody, and control of the client to care for the client.
- (5) A “short-term training admission” as used herein means an admission to a developmental center under a written agreement wherein it is agreed in advance that said developmental center will prescribe a specific program for the temporary resident which is designed to accomplish a certain goal or goals for a specified period of time; and at the conclusion of the short-term training admission, the person having care, custody, and control of the client shall withdraw him from the developmental center. Admissions to a developmental center under a respite admission, an emergency respite admission, or a short-term training admission as defined above, or any combination thereof, shall not exceed 225 days within a twelve-month period from the date of initial admission in any of the aforesaid categories. In no event shall a respite admission, emergency respite admission, short-term training admission, or combination thereof, be used to circumvent appearance before the Admission Review Board where regular admission is actually sought or appropriate. All other admissions to a developmental center must go through the Admissions Review Board procedure or be in compliance with the orders and adjudications of courts of competent jurisdiction.

Authority: T.C.A. §§33—1—104, 33—1—105 and 33—501. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978.

0940—4—1—.05 ADMISSION REVIEW HEARING.

- (1) When the developmental center admissions committee recommends admission and there is an available bed for the proposed resident, it shall report its findings and recommendations to the Admission Review Board.
- (2) Upon receipt by the Admission Review Board of a recommendation by the developmental center admissions committee that a proposed resident be voluntarily admitted to the developmental center, the Admission Review Board shall give written notice at least fifteen (15) days in advance to the proposed resident and the person or persons who made application for his voluntary admission thereto of a hearing to be held on a certain date to review the recommendations of the developmental center admissions committee and decide whether or not the proposed resident should be admitted to the developmental center. The proposed resident shall be advised that he may retain private counsel of his own choice or, absent such employment, or the ability to understand such advice, said proposed resident shall be represented at the hearing by counsel provided by the State, at a fee rate to be established by the State. Said counsel shall have access to all documents upon which the admissions committee made its recommendations for admission prior to the hearing. Said documents are to be reviewed at the developmental center.
- (3) For each developmental center, its board of trustees shall select two attorneys and the President of the Tennessee Association for Retarded Citizens, Incorporated shall select two attorneys. The names of the four selected attorneys for Clover Bottom Developmental Center shall be given to the Director of the Davidson County Association for Retarded Citizens. The names of the four selected attorneys for all other developmental centers shall be given to the President of the Parent-Guardian Association or similar organization of the respective developmental center. The duties of the director and the president, respectively, are to notify and assign attorneys on a rotating basis when representation is needed by proposed residents at an Admission Review Board hearing, and to ensure that no attorney is assigned to successive Admission Review Board hearings unless the other attorneys are unavailable or unwilling to serve. No two of the four selected attorneys for each developmental center may be employed or associated with the same firm or legal aid organization. The sole duty of appointed counsel is to represent the interests of the proposed resident at Admission Review Board hearings. Counsel’s sole allegiance is to the proposed resident even though the fees of appointed counsel are paid by the State of Tennessee. Attorneys who become unwilling or unable to represent proposed residents at Admission Review hearings shall be replaced by the organization which originally chose them.
- (4) The hearing by the Admission Review Board shall be conducted in conformity with the requirements of T.C.A. § 4—5—101 *et seq.* (Uniform Administrative Procedures Act). The proposed resident and the person

(Rule 0940-4-1-.05, continued)

or persons making application for voluntary admission of the proposed resident shall be entitled to be present and heard at each hearing. Upon reasonable request by the proposed resident or his counsel, the Admission Review Board is authorized to call before it the person or persons who furnished information to the admissions committee for questioning by the proposed resident or his counsel regarding the information

- (5) they furnished said admissions committee. Likewise, the representative of the developmental center who is present at the hearing and the person or persons making application for admission of the proposed resident may question the person or persons if they are called as witnesses before the Board. In addition, the proposed resident or his counsel shall have the authority to request the Admission Review Board to have further professional testing and evaluations of the proposed resident carried out before a final decision by said Board provided that such testing and evaluations shall be paid for by the person seeking admission if non-indigent. The Admission Review Board shall record the oral testimony presented to it by tape recording or other suitable mechanical device which shall be transcribed if the proposed resident seeks judicial review of the action of the Admission Review Board in the State courts. The transcription shall be at the expense of the person seeking admission in cases of non-indigency.
- (6) At the conclusion of the hearing, or as soon thereafter as practicable, the Admission Review Board will reach its decision on the issue of whether or not the proposed resident shall be voluntarily admitted to the developmental center. The Board shall act only by majority vote. Its decision shall have as its primary consideration the welfare of the proposed resident. Its decision shall not be influenced by any benefits flowing from admission which may be received solely by the family, parents, guardian or representative of proposed resident. The decision of the Board shall be in written form and reflect in reasonable detail the Board's findings regarding the severity of retardation of the proposed resident, the type of treatment which is appropriate for the proposed resident, the existence or non-existence of other feasible alternatives to admission to the developmental center, and the evidence upon which its decision is based, but this written decision need not amount to formal findings of fact and conclusions of law. Copies of the written decision of the Admission Review Board shall be furnished to the superintendent of the developmental center, the proposed resident or his counsel, and to the person or persons who made application for the voluntary admission of the proposed resident to the developmental center. The decision of the Board is final administratively, but it may be reviewed by a proper state court. All admissions to a developmental center shall be carried out subject to the availability of suitable space for the proposed resident.

Authority: T.C.A. §§33—1—203, 33—1—204, and 33—5—101. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Amendment filed July 2, 1979; effective August 16, 1979. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.

0940—4—1—.06 CONSENT REQUIREMENTS. Repealed.

Authority: T.C.A. §§33—1—203, 33—1—204, and 33—5—101. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Repealed by Public Chapter 969; effective July 1, 1984.